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Testimony in Support of Assembly Bill 716
Assembly Committee on Jobs, the Economy and Small Business
February 17, 2010

Thank you Chairman Molepske and committee members for hearing testimony on this important piece of legislation.

Senator Wirch, Representative Newcomer and I introduced this legislation on behalf of the National Association of Professional Employer Organizations.

PEOs offer a very important service to small and medium-sized businesses: they contract with businesses to do payroll, fulfill human services tasks, and perform other functions that essentially free-up the time of the small business and allow the owner to focus more on selling products, developing more customers, and making their business successful.

While PEOs in Wisconsin have a long and successful history as good corporate citizens, until last session, there were no regulations in place that set minimum financial standards. That being the case, the industry joined with legislators and the Department of Regulation and Licensing to pass legislation that would regulate PEOs in Wisconsin. The bill passed overwhelmingly in both houses and was signed by the Governor.

This bill makes a number of minor modifications to ensure that the law matches the intent of the Legislature.

1. Clarifies that temporary help agencies and temporary help companies are not PEOs.
2. Clarifies the legislative intent to allow a PEO with fewer than 50 employees in Wisconsin, but registered in another state, to register as a small operation rather than fully registering.
3. For purposes of tax credits and economic development incentives, employees are considered client employees and not employees of the PEO.
4. Lastly, the Department will be required to maintain a list of registrants on the internet, update it and include the address of registrants.

Yesterday the Senate companion to AB 716 – SB 504 – passed out of the Senate Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection by a vote of 5-0.

Thank you for hearing this testimony.

Background on primary issue:

In the course of implementing the law the Department of Regulation and Licensing felt that they may not be able to allow for limited registrations for PEO under certain circumstances.

For example, a resident of Wisconsin works for a small business in Illinois that uses the services of PEO that does not operate in Wisconsin. As the Department is now interpreting the bill, the PEO would have to fully register in Wisconsin in order to be able to provide benefits to that one employee. Given the requirements of registration, it is unlikely that the PEO would register in Wisconsin.

Another example that could arise is a situation where a small business owner in another state chooses to open a location in Wisconsin. If the small business owner uses a PEO in another state, the intent of the bill was for that PEO to complete a limited registration. Just as in the example of the one employee I mentioned, a PEO may be unlikely to fully register to provide services for the one location.



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**Before the Assembly Committee on Jobs, the Economy, and Small Business
Assembly Bill 716
Adam Peer, Assistant Director of State Government Affairs
National Association of Professional Employer Organizations
February 17, 2010**

Mr. Chairman and Members,

My name is Adam Peer and I am representing the National Association of Professional Employer Organizations (NAPEO). On behalf of our entire membership, but specifically our Wisconsin-based members, I am here this today to testify **in support** of Assembly Bill 716 (**and Senate Bill 504, companion legislation passed 5-0**), a measure that will improve Chapter 461, Professional Employer Organizations.

NAPEO especially wants to thank Representative Hilgenberg, Senator Wirch, Secretary Jackson and their respective staff for their hard work on this legislation.

What is a professional employer organization?

A professional employer organization (PEO) is a business that partners with an existing small business to manage human resources, that can include employee benefits including healthcare, workers' compensation, Section 125 plans, retirement services and other critical benefits so their small business clients can focus on their core competencies to maintain and grow their business. The average PEO client is a small business with an average of 5 to 20 employees. By forming an employment relationship with these small businesses and their employees, PEOs are able to offer enhanced access to employee benefits that makes a small business of 10 feel like they are part of a company of 10,000. This allows small businesses to attract and retain a higher quality workforce.

Chapter 189, Professional Employer Organizations (2007 Act 189)

Last session, NAPEO supported Act 189 that created the basic statutory framework for PEOs in Wisconsin. The act also created important minimum financial standards, required financial audits by independent auditors, and annual registration with the Department of Regulation and Licensing. NAPEO also supported the additional technical changes earlier this session.

Senate Bill 504, Improvements to Chapter 189

The department and the industry identified several administrative issues to improve the effective administration of the new act as well as several areas worth clarifying. Senate Bill 504 is the result of the collaboration among the department, legislators, and NAPEO. We believe that the changes in Senate Bill 504 improve the act and are in keeping with the original intent of the act.

Again, I urge your support of Assembly Bill 716.

Assembly Bill 716

Chapter 461 – Professional Employer Organizations (WI Stats.)

Summary

Background

A Professional Employer Organization or PEO is a business that partners with an existing small business to manage human resources (professional employer services), that can include employee benefits such as healthcare, Section 125 plans, retirement services and other critical benefits, so small business clients can focus on their core competencies to maintain and grow their business. During the 2007-2008 session, the legislature created a statutory framework for PEOs found in chapter 461. This session several technical amendments were made to the chapter. Working with the department of regulation and licensing, the industry has identified additional technical and clarifying amendments:

Clarifications:

- Tax Credit: Clarify that tax credits and economic benefits *offered by local government* also belong to the client.
- Per Capita: Clarify that credits, mandated expenditures, etc. by the state or local government on a per capital basis shall be determined at the client-level.
- Definition: Clarify that a PEO is not a “temporary help agency” as defined in s. 102.01(2)(f) or a “temporary help company” as defined in s. 108.02(24m) or similar entity or person.

Technical Changes:

- Replace Term: Rename “limited registration”, “small operations” to avoid confusion with similar term.
- Name Act: Name the chapter the “Wisconsin Professional Employer Organization Act”.
- Required Filing: Clarify what an applicant for a small operations registration (currently, limited registration) must file.

Public List: Direct the department to maintain a list of registered PEOs that is readily available to the public.